

105TH CONGRESS  
1ST SESSION

# H. R. 3054

To adjust the immigration status of certain nationals of El Salvador, Guatemala, and Haiti, to amend the Immigration and Nationality Act to eliminate the special rule relating to termination of the period of continuous physical presence for cancellation of removal, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 13, 1997

Mr. GUTIERREZ (for himself, Mr. BECERRA, Mrs. MEEK of Florida, Mr. HINOJOSA, Mr. RODRIGUEZ, Ms. ROYBAL-ALLARD, Ms. SANCHEZ, and Ms. WATERS) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To adjust the immigration status of certain nationals of El Salvador, Guatemala, and Haiti, to amend the Immigration and Nationality Act to eliminate the special rule relating to termination of the period of continuous physical presence for cancellation of removal, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Equal Justice for Im-  
5 migrants Act”.

1 **SEC. 2. ADJUSTMENT OF STATUS OF THE ABC CLASS AND**  
2 **CERTAIN SALVADORANS, GUATEMALANS,**  
3 **AND HAITIANS.**

4 (a) ADJUSTMENT OF STATUS.—

5 (1) IN GENERAL.—Notwithstanding section  
6 245(c) of the Immigration and Nationality Act, the  
7 status of any alien described in subsection (b) of this  
8 Act shall be adjusted by the Attorney General to  
9 that of an alien lawfully admitted for permanent  
10 resident, if the alien—

11 (A) applies for such adjustment before  
12 April 1, 2000; and

13 (B) is otherwise eligible to receive an im-  
14 migrant visa and is otherwise admissible to the  
15 United States for permanent residence, except  
16 in determining such admissibility the grounds  
17 for inadmissibility specified in paragraphs (4),  
18 (5), (6)(A), (7)(A), and (9)(B) of section  
19 212(a) of the Immigration and Nationality Act  
20 shall not apply.

21 (2) RELATIONSHIP OF APPLICATION TO CER-  
22 TAIN ORDERS.—An alien present in the United  
23 States who has been ordered excluded, deported, re-  
24 moved, or ordered to depart voluntarily from the  
25 United States under any provision of the Immigra-  
26 tion and Nationality Act may, notwithstanding such

1       order, apply for adjustment of status under para-  
2       graph (1). Such an alien may not be required, as a  
3       condition on submitting or granting such applica-  
4       tion, to file a separate motion to reopen, reconsider,  
5       or vacate such order. If the Attorney General ren-  
6       ders a final administrative decision to deny the ap-  
7       plication, the order shall be effective and enforceable  
8       to the same extent as if the application had not been  
9       made.

10       (b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STA-  
11       TUS.—The benefits provided by subsection (a) shall apply  
12       to any alien who is physically present in the United States  
13       on the date the application is filed and is—

14               (1) a Salvadoran national who first entered the  
15       United States on or before September 19, 1990, who  
16       registered for benefits pursuant to the settlement  
17       agreement in *American Baptist Churches, et al. v.*  
18       *Thornburgh* (ABC), 760F. Supp. 796 (N.D. Cal.  
19       1991) on or before October 31, 1991;

20               (2) a Guatemalan national who first entered the  
21       United States on or before October 1, 1990, and  
22       who registered for benefits pursuant to such settle-  
23       ment agreement on or before December 31, 1991;

24               (3) a Salvadoran or Guatemalan national who  
25       filed an application for asylum with the Immigration

1 and Naturalization Service on or before April 1,  
2 1990; or

3 (4) a Haitian national—

4 (A) who has been physically present in the  
5 United States for at least 1 year; and

6 (B) who—

7 (i) was physically present in the Unit-  
8 ed States on December 31, 1995;

9 (ii) filed for asylum before December  
10 31, 1995; or

11 (iii) was paroled into the United  
12 States—

13 (I) prior to December 31, 1995,  
14 after having been identified as having  
15 a credible fear of persecution; or

16 (II) for emergent reasons or rea-  
17 sons deemed strictly in the public in-  
18 terest.

19 (c) STAY OF REMOVAL.—

20 (1) IN GENERAL.—The Attorney General shall  
21 provide by regulation for an alien subject to a final  
22 order of deportation or removal to seek a stay of  
23 such order based on the filing of an application  
24 under subsection (a).

1           (2) DURING CERTAIN PROCEEDINGS.—Notwith-  
2           standing any provision of the Immigration and Na-  
3           tionality Act, the Attorney General shall not issue a  
4           final order of removal against an alien, if the alien  
5           is in exclusion, deportation, or removal proceedings  
6           under any provision of such Act and raises as a de-  
7           fense to such an order the eligibility of the alien to  
8           apply for adjustment of status under subsection (a),  
9           except where the Attorney General has rendered a  
10          final administrative determination to deny the appli-  
11          cation.

12          (3) WORK AUTHORIZATION.—The Attorney  
13          General may authorize an alien who has applied for  
14          adjustment of status under subsection (a) to engage  
15          in employment in the United States during the  
16          pendency of such application and may provide the  
17          alien with an “employment authorized” endorsement  
18          or other appropriate document signifying authoriza-  
19          tion of employment, except if such application is  
20          pending for a period exceeding 180 days, and has  
21          not been denied, the Attorney General shall author-  
22          ize such employment.

23          (d) ADJUSTMENT OF STATUS FOR SPOUSES AND  
24          CHILDREN.—Notwithstanding section 245(c) of the Immi-  
25          gration and Nationality Act, the status of an alien shall

1 be adjusted by the Attorney General to that of an alien  
2 lawfully admitted for permanent residence, if—

3 (1) the alien is a national of El Salvador, Gua-  
4 temala, or Haiti;

5 (2) the alien is the spouse, child, or unmarried  
6 son or daughter, of an alien whose status is adjusted  
7 to that of an alien lawfully admitted for permanent  
8 residence under subsection (a);

9 (3) the alien applies for such adjustment and is  
10 physically present in the United States on the date  
11 the application is filed; and

12 (4) the alien is otherwise admissible to the  
13 United States for permanent residence, except in de-  
14 termining such admissibility the grounds for inad-  
15 missibility specified in paragraphs (4), (5), (6)(A),  
16 (7)(A), and 9(B) of section 212(a) of the Immigra-  
17 tion and Nationality Act shall not apply.

18 (e) AVAILABILITY OF ADMINISTRATIVE REVIEW.—  
19 The Attorney General shall provide to applicants for ad-  
20 justment of status under subsection (a) the same right to,  
21 and procedures for, administrative review as are provided  
22 to—

23 (1) applicants for adjustment of status under  
24 section 245 of the Immigration and Nationality Act;  
25 or

1           (2) aliens subject to removal proceedings under  
2           section 240 of such Act.

3           (f) JUDICIAL REVIEW.—A determination by the At-  
4   torney General as to whether the status of any alien  
5   should be adjusted under this section is subject to judicial  
6   review in accordance with chapter 7 of title 5, United  
7   States Code.

8           (g) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—  
9   When an alien is granted the status of having been law-  
10   fully admitted for permanent residence pursuant to this  
11   section, the Secretary of State shall not be required to re-  
12   duce the number of immigrant visas authorized to be is-  
13   sued under any provision of the Immigration and Nation-  
14   ality Act.

15          (h) APPLICATION OF IMMIGRATION AND NATIONAL-  
16   ITY ACT PROVISIONS.—Except as otherwise specifically  
17   provided in this section, the definitions contained in the  
18   Immigration and Nationality Act shall apply in the admin-  
19   istration of this section. Nothing contained in this section  
20   shall be held to repeal, amend, alter, modify, affect, or  
21   restrict the powers, duties, functions, or authority of the  
22   Attorney General in the administration and enforcement  
23   of such Act or any other law relating to immigration, na-  
24   tionality, or naturalization. The fact that an alien may be  
25   eligible to be granted the status of having been lawfully

1 admitted for permanent residence under this section shall  
2 not preclude the alien from seeking such status under any  
3 other provision of law for which the alien may be eligible.

4 **SEC. 3. AMENDMENTS TO NICARAGUAN ADJUSTMENT AND**  
5 **CENTRAL AMERICAN RELIEF ACT.**

6 (a) **ELIMINATION OF LIMITATIONS ON JUDICIAL RE-**  
7 **VIEW.—**

8 (1) **ADJUSTMENT OF STATUS OF CERTAIN NICA-**  
9 **RAGUANS AND CUBANS.—**Section 202(f) of the Nica-  
10 raguean Adjustment and Central American Relief Act  
11 is amended to read as follows:

12 “(f) **JUDICIAL REVIEW.—**A determination by the At-  
13 torney General as to whether the status of any alien  
14 should be adjusted under this section is subject to judicial  
15 review in accordance with chapter 7 of title 5, United  
16 States Code.”.

17 (2) **SPECIAL RULE FOR CERTAIN ALIENS**  
18 **GRANTED TEMPORARY PROTECTION FROM DEPORTA-**  
19 **TION.—**Section 309(c)(5)(C)(ii) of the Illegal Immi-  
20 gration Reform and Immigrant Responsibility Act of  
21 1996, as added by section 203(a)(1) of the Nica-  
22 raguean Adjustment and Central American Relief  
23 Act, is amended to read as follows:

24 “(ii) **JUDICIAL REVIEW.—**A deter-  
25 mination by the Attorney General as to



1                   whether an alien satisfies the requirements  
2                   of clause (i) is subject to judicial review in  
3                   accordance with chapter 7 of title 5, Unit-  
4                   ed States Code. Nothing in the preceding  
5                   sentence shall be construed as limiting the  
6                   application of section 242(a)(2)(B) of the  
7                   Immigration and Nationality Act (as in ef-  
8                   fect after the title III–A effective date) to  
9                   other eligibility determinations pertaining  
10                  to discretionary relief under this Act.”.

11           (b) ELIMINATION OF TEMPORARY REDUCTIONS IN  
12 VISAS.—Section 203 of the Nicaraguan Adjustment and  
13 Central American Relief Act is amended—

14                   (1) by striking subsections (d) and (e); and  
15                   (2) by redesignating subsection (f) as sub-  
16                  section (d).

17           (c) EFFECTIVE DATE.—The amendments made by  
18 this section—

19                   (1) shall take effect upon the enactment of the  
20                  Nicaraguan Adjustment and Central American Re-  
21                  lief Act; and

22                   (2) shall be effective as if included in the enact-  
23                  ment of such Act.

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